

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10188 of 2023

=====

Ravi Anand, Son of Shri Arjun Prasad, Resident of Village and Post Andi, P.S
Asthawan District Nalanda.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Bihar Public Service Commission through its Secretary, having its office at 15, Jawaharlal Nehru Marg, Bailey Road, Patna.
3. The Chairman, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg, Bailey Road, Patna.
4. The Secretary, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg, Bailey Road, Patna.
5. The Union of India through the Chairman, All India Council for Technical Education (AICTE), Ministry of Education, Government of India, having its Office at Nelson Mandela Marg, Vasant Kunj, New Delhi.
6. The Chairman, All India Council for Technical Education, Ministry of Education, Government of India, Nelson Mandela Marg, Vasant Kunj, New Delhi.

... .. Respondents

=====

Appearance :

For the Petitioner	:	Mr. S.D. Sanjay, Sr. Advocate Mr. Rahul Kumar, Advocate
For the State	:	Mr. Ruchikar Jha, AC to SC-8
For the BPSC	:	Mr. Kaushal Kumar Jha, Sr. Advocate Mr. Amish Kumar, Advocate
For the UOI	:	Mr. Manoj Kumar Singh, CGC Mr. Ankit Kumar Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 08-08-2023

Heard Mr. S.D. Sanjay, learned senior counsel for the petitioner, Mr. Kaushik Kumar Jha, learned senior counsel assisted by Mr. Amish Kumar, learned counsel for the Bihar Public Service Commission and Mr. Ruchikar Jha, learned AC to SC-8 for the State.



2. The petitioner in the present case is seeking the following reliefs:-

“a. For issuance of a writ to quash the final result dated 06.03.2023 published by the Respondent BPSC for appointment to the post of Assistant Professor (Electrical Engineering) in Advertisement No. 11/2020 as the petitioner has been declared ineligible for the said post and his candidature has been cancelled by the Respondent BPSC without considering his objection or giving him an opportunity of hearing in an arbitrary manner and in violation of the principles of natural justice;
b. For direction upon the Respondent BPSC to consider the petitioner eligible to the post of Assistant Professor (Electrical Engineering) who holds the Degree of the integrated course i.e. B.Tech in Electrical Engineering and M.Tech in Information and Communication Technology (Five years);
c. For a direction upon the Respondent BPSC to publish a revised result for appointment to the post of Assistant Professor (Electrical Engineering) in Advertisement No. 11/2020 considering the candidature and merit of the Petitioner and thereafter, declare the result of the petitioner;
d. For a direction upon the Respondent BPSC to appoint the Petitioner to the post of Assistant Professor (Electrical Engineering) in accordance with the respective rules of appointment if he is declared successful in the final result for selection to the post in question; and/or for any other relief(s) for which the petitioner may be found entitled to in the facts and circumstances of the present case.”



Submissions of the Petitioner

3. Learned senior counsel for the petitioner submits that pursuant to the Advertisement No. 11 of 2020 issued by the Bihar Public Service Commission (hereinafter referred to as the 'BPSC') for regular appointment to the post of Assistant Professors, Electrical Engineering in Government Engineering College under the Department of Science and Technology, Patna, Bihar as contained in Annexure '1' to the writ application, the petitioner submitted his application.

4. Learned senior counsel submits that vide Annexure '2' which is the list of eligible candidates published by the BPSC, the petitioner was declared ineligible for the reason that he has obtained Post Graduation Degree of M.Tech in Information and Communication Technology and not of M.Tech. in Electrical Engineering.

5. Learned senior counsel submits that from Annexure '1', it would appear that the educational qualification/eligibility of the candidate has been laid down as B.E/B.Tech/B.S./B.Sc (Engineering) and M.E./M.Tech./M.S. or integrated M.Tech in Electrical Engineering. His emphasis is that the petitioner has done his M.Tech in Information and Communication Technology which has been designed by the Indian Institutes of Technology, Delhi



and is being taught under the Department of Electrical Engineering, therefore, his Post Graduation Degree is to be taken as equivalent to the M.Tech in Electrical Engineering.

6. To impress upon this Court with his submissions, learned senior counsel has placed before this Court a copy of the public notice issued by All India Council for Technical Education (in short 'AICTE') and a copy of the answers given by AICTE to the frequently asked questions on its website. It is submitted that this Court may appreciate that the petitioner has got a better expertise and he has completed his B.Tech in Electrical Engineering combined with M.Tech in Information and Communication Technology and some of the contents of the course of Information and Communication Technology are similar to the contents of the course of M.Tech in Electrical Engineering.

7. Learned senior counsel has placed before this Court a copy of the representation submitted by the petitioner vide Annexure '14' before the Hon'ble Member Secretary, AICTE, Vasant Kunj, New Delhi and the reply thereto given by Professor Rajive Kumar, Member Secretary of the AICTE (Annexure '15'). It is submitted that vide Annexure '15', the AICTE has confirmed that M.Tech in Information and Communication Technology is



being considered under Electrical Engineering Department of Indian Institutes of Technology, Delhi.

Submission on behalf of BPSC

8. On the other hand, Mr. Kausal Kumar Jha, learned senior counsel for the BPSC submits that from a bare reading of the writ application, it would appear that the petitioner has done the integrated course of B.Tech in Electrical Engineering and M.Tech in Information and Communication Technology. It is submitted that no doubt several courses are designed by the institutions, however, from the list of the courses copy of which has been made available to this Court, it would appear that that AICTE has vide notification dated 28th April, 2017 made it clear that the notification contains Major/ Core Branches of Engineering and Technology with nomenclatures of UG and PG degrees relevant for recruitment in teaching positions in the technical institutions, however, in the same notification, it has been made clear that the Board of Governors (BoG) of the concerned institution on the recommendation of duly constituted Selection Committee and with the approval of their respective State/UT/Central Government/University/DTE etc. as applicable may take appropriate decision on relevant qualifying degrees



suitable for recruitment to teaching positions especially keeping in view interdisciplinary nature of emerging technologies.

9. Mr. Jha, learned senior counsel has pointed out that one of the UG Degree in Electrical Engineering is that of Electrical Engineering itself and in the Post Graduation Degree also besides other courses there is a combined course of M.Tech Electrical Engineering. It is submitted that it is always in the domain of the employer to lay down eligibility/requirement and/or to take appropriate decision as to the relevancy of the qualifying degrees suitable for recruitment.

10. Mr. Jha, learned senior counsel has relied upon the judgment of the Hon'ble Supreme Court in the case of **Unnikrishnan CV and Others versus Union of India and Others** reported in **AIR 2023 SC1943**.

11. In this case, it is submitted that there is not even a whisper much less any statement in the writ application that the syllabus of the M.Tech in Electrical Engineering and that of the M.Tech in Information and Communication Technology is the same and one. Moreover, it is submitted that even the public notice which has been placed before this Court by learned senior counsel for the petitioner would show that AICTE does not provide equivalence of the qualifications obtained from AICTE approved



technical institutions at Diploma/UG/PG levels for higher education purposes as well as for employment purpose. It has been declared by the AICTE that it is up to the employers to decide the suitability for a particular post in case of employment purpose in institutions/universities for higher studies in case of academic purpose. Thus, it is submitted that the writ application is not fit to be accepted.

Consideration

12. Having heard learned senior counsel for the petitioner and learned senior counsel for the BPSC and upon going through the materials available on the record, this Court is of the considered opinion that the petitioner who is having B.Tech in Electrical Engineering combined with M.Tech in Information and Communication Technology cannot be declared equivalent to M.Tech in Electrical Engineering by this Court sitting under Article 226 of the Constitution of India. The 'AICTE' public notice which has been placed before this Court reads as under:-

“ ALL INDIA COUNCIL FOR TECHNICAL EDUCATION

(An statutory Body of Government of India)

Nelson Mandela Marg, Vasant Kunj, New Delhi-1100067

Ph: 011-26131576, 77, 78, 80

Website: www.aicte-india.org



PUBLIC NOTICE

AICTE receives many representations regarding equivalence of various diploma/degrees. It is for the information of the stakeholders and the general public that AICTE does not provide equivalence of the qualifications obtained from AICTE approved technical institutions at Diploma/UG/PG levels for higher education purposes as well as for employment purpose. It is up to the employers to decide the suitability for a particular post in case of employment purpose and Institutions/Universities for higher studies in case of academic purpose.

However, AICTE has issued a notification dated 28.04.2017 regarding Major/Core Branch of Engineering/Technology and their relevant/appropriate courses leading to degree in Engineering/Technology for recruitment to teaching positions.

Member Secretary

All India Council for Technical Education”

13. Paragraphs ‘5’ and ‘7’ of the judgment of the

Hon’ble Supreme Court in the case of **Unnikrishnan CV** (supra)

are quoted hereunder for a ready reference:-

“5. In this background, the qualification as prescribed in column No. 11 of GREF Rules, 1982 when perused, would indicate that candidate who is seeking promotion to the post of Superintendent BR Grade-I has to possess “**Diploma in Civil Engineering**” with 5 years regular service in the grade of General Reserve Engineering Force. Whereas appellants are possessing Diploma in Draughtsman Estimating and Design (DED), which fact is not seriously disputed by them. Mr. Tapas Das, learned counsel appearing for the appellants has fairly conceded before this Court that an erroneous proposition was put forth before the High Court, namely, it was contended that Diploma is equivalent to a Degree and as such negating said contention, the High Court though



justified its conclusion had erred in ignoring the consistent stand that had been taken by the Appellants, namely, Diploma in DED possessed by them is that of 2 years course and though column 11 prescribes Diploma in Civil Engineering for being promoted as Superintendent BR-Grade-I is to be treated as equivalent and this aspect was required to be considered by the High Court is an argument which looks attractive at first blush. However, on a careful perusal of the extant Rules as applicable for promotion to the post of Superintendent BR Grade-II, said contention has to be necessarily rejected for reasons more than one. **Firstly**, before the High Court appellants attempted to justify their claim contending “Diploma” is equivalent to a “Degree” and as such being entitled for promotion which has been negated by the High Court and rightly so. **Secondly**, appellants tried to justify their claim contending rule as applicable for direct recruitment would be applicable for recruitment by promotion, which has not been accepted by the High Court. In so far as the contention regarding qualification for promotion, the rule itself is explicit and clear, namely, it prescribes for promotion to Superintendent BR Grade-I only, those candidates possessing Diploma in Civil Engineering with 5 years regular service in the grade in General Reserve Engineering Force would be eligible. No doubt, said rule is silent with regard to Diploma in Civil Engineering being either 3 years or otherwise. It is an undisputed fact that appellants possess ‘Diploma in DED’ and not ‘Diploma in Civil Engineering’. It is trite law that courts would not prescribe the qualification and/or declare the equivalency of a course. Until and unless rule itself prescribes the equivalency namely, different courses being treated alike, the courts would not supplement its views or substitute its views to that of expert bodies.

7. In *Zahoor Ahmad Rather and others v. Sheikh Imtiyaz Ahmad and others*², it was held that the State, as an employer, is entitled to prescribe qualifications as a condition of eligibility, after taking into consideration the nature of the job, the aptitude required for efficient discharge of duties, functionality of various qualifications, course content leading up to the acquisition of various qualifications, etc. Judicial review can neither expand the ambit of the prescribed qualifications nor decide the equivalence of the prescribed qualifications with any other

2. (2019) 2 SCC 404 :(AIR Online 2018 SC 872).



given qualification. Equivalence of qualification is a matter for the State, as recruiting authority, to determine.”
(Emphasis supplied)

14. In the aforesaid view of the matter, this Court cannot enter into a discussion as to whether the M.Tech in Information and Communication Technology may be treated equivalent to the M.Tech in Electrical Engineering.

15. This Court finds no reason to proceed with this writ application. It is dismissed.

16. There will be no order as to cost.

(Rajeev Ranjan Prasad, J)

SUSHMA2/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	09.08.2023
Transmission Date	

